

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2000 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DWIVEDI BHAHIRAJ BHANUBHAI

Versus

G P S C

Appearance:

MR KV SHELAT for Petitioner

MR BB NAIK for Respondent No. 1

Mr.A.J.Desai,L.A. for M/S MG DOSHIT & CO for Respondent No. 2

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 09/10/96

ORAL JUDGEMENT

It is indeed a quirk of fate which has come in the way of the petitioner. Otherwise successful in the written examination held by Gujarat Public Service Commission (GPSC), the petitioner was not called for oral interview as he was found overaged by a day only.

2. His birth date is 24-4-1955. In response to the

advertisement Annexure A, page 15, issued by the Gujarat Public Service Commission, respondent no.1., he applied. Requirement as to age was that the candidate should not have completed 28 years of age on 24-4-1983.

3. The birth-date of the petitioner being 24-4-1955, he will be completing 28 years of age on 23-4-1983. On the aforesaid date, therefore, he would be over aged.

4. Before admitting the matter, Justice N.H.Bhatt, as he then was, directed the Government to consider the representation of the petitioner in exercise of the power of the Government under Rule 16 of Gujarat Civil Services Classification and Recruitment General Rules 1967.

5. I am told by the learned Assistant Government Pleader Mr.A.J.Desai that in his file there is a communication received from the Government intimating that pursuant to the said order dated 10-4-1985, the case of the petitioner was considered as the petitioner was already in Government service. However, the State Government could not bring itself to relax the age because the power can be exercised only in the interest of public service. It has been further explained in the said communication from the Government read over to me by Mr.Desai that as there were other candidates available fulfilling all the requirements including that of the age, it is not a case where the post will remain vacant unless the age relaxation is granted and the petitioner, who is the concerned candidate, is given the benefit thereof.

6. An attempt was made by L.A. Mr.K.V.Shelat to read the phrase "in the interest of public service" to mean that the post itself being advertised by GPSC, respondent no.1, and it being a public service it would be in the interest of public service to grant age relaxation to the petitioner. All posts advertised by respondent no.1 are public service and merely because they are so, it would not mean that powers under Rule 16 are to be exercised by reading the phrase "in the interest of public service" to mean "posts which are of public service". In my opinion, therefore, this contention cannot be accepted.

7. Under the circumstances, nothing now survives in the matter. The petitioner is admittedly overaged and therefore, the action cannot be faulted with. The petition is dismissed with no order as to costs. Rule is discharged.
